

**49 CFR Part 173**

[Docket No. HM-166V; Amdt. No. 173-198]

**Hazardous Materials: Uranium Hexafluoride: Petitions for Reconsideration; Notice of Public Meeting**

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Revision to the final rule (Amendment No. 173-198).

**SUMMARY:** This document revises the final rule published on November 18, 1986, in the Federal Register (51 FR 41631) under Docket HM-166V, Amendment Nos. 172-107 and 173-198, regarding the transportation of uranium hexafluoride (UF<sub>6</sub>) to permit the continued use of all packagings for UF<sub>6</sub> until June 30, 1987 after which time UF<sub>6</sub> packaging must meet the design, fabrication and marking requirements specified in American National Standards Institute (ANSI) Standard N14.1-1982 or an earlier edition thereof. Also, RSPA is announcing a public meeting and soliciting comments on the standards applicable to, and the use of, packaging that do not meet these ANSI standards, the effect of requiring these packagings to meet these ANSI standards or other restrictions, and information on standards to which these packagings may have been manufactured. This action is in response to petitions for reconsideration which have been received by RSPA and is necessary to avoid a potential disruption in defense and civilian nuclear activities that would be caused by immediate implementation of the packaging standards promulgated under Docket 166V for all UF<sub>6</sub> shipments.

**DATES:** The effective date is January 1, 1987. The public meeting will be held on March 2, 1987, beginning at 9:00 a.m. Comments for use at the public meeting should be received by February 15, 1987.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Transportation, Nassif Building, Room 2230, 400 Seventh Street SW.,

Washington, DC. Address comments to Dockets Branch, Office of Hazardous Materials Transportation (DHM-53), U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street SW., Washington, DC. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Michael E. Wangler, Technical Division, Office of Hazardous Materials Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-4545.

**SUPPLEMENTARY INFORMATION:** On November 18, 1986, RSPA published a final rule under Docket HM-166V, Amendment Nos. 172-107 and 173-198, in the Federal Register (51 FR 41632), which adopted standards for the design, fabrication, inspection, testing and marking of packagings used for the transport of UF<sub>6</sub>. The final rule followed a notice of proposed rulemaking (NPRM) under Docket HM-166V, which was published on April 11, 1986 (51 FR 12529). Since the publication of the final rule, RSPA has received 5 petitions for reconsideration in accordance with the provisions of 49 CFR 106.35. The petitioners requested reconsideration of the application of packaging standards and extension of the effective date of the final rule. This document modifies a requirement addressing design and fabrication of packaging used for the transport of UF<sub>6</sub> (§ 173.420(a)(2)). Packaging not manufactured in accordance with ANSI Standard N14.1-1982 or an earlier edition of this standard may not be used after June 30, 1987. All other provisions of the final rule will remain unchanged.

Two petitioners have indicated that approximately 50,000 cylinders are currently being used as packaging for the transport of UF<sub>6</sub>. Most of these cylinders were manufactured before the publication of ANSI Standard N14.1-1982. Most of these cylinders are owned by the U.S. Department of Energy (USDOE), whose uranium enrichment program provides UF<sub>6</sub> for national defense programs as well as the domestic and foreign nuclear power industry. RSPA acknowledged in the final rule that some cylinders, manufactured before 1982, would not meet the new requirement. RSPA proposed to permit continued use of the cylinders through exemptions granted under the provisions of Part 107 of the Hazardous Materials Regulations (HMR). However, all petitioners have noted that the time period between the

publication date and the effective date of the final rule is too short to obtain exemptions. RSPA agrees with the petitioners. A delay in the implementation of the requirement for design and fabrication of all UF<sub>6</sub> packaging is justified.

Although RSPA acknowledged in the final rule that some packagings may not conform to the packaging requirements and, therefore, could be continued in use only under the terms of exemptions, RSPA believed that the number would be small and promulgation of the design and fabrication requirement covering all other cylinders would enhance safety. RSPA had received comments on the NPRM addressing the potential impact on existing cylinders, but RSPA was not aware of the degree of impact. Based upon the new information submitted by the petitioners for reconsideration, RSPA now believes that § 173.420(a)(2) of the final rule could have an adverse effect on the entire industry and requires further consideration before its implementation. RSPA also believes that the transport of UF<sub>6</sub> cylinders is a matter of such general applicability and future effect that it should be addressed by means of the rulemaking process rather than the exemption process. In addition, upon reexamination of packaging standards, RSPA believes that packagings manufactured in accordance with ANSI Standard 14.1-1971 are acceptable for transportation UF<sub>6</sub>.

To facilitate RSPA reevaluation of the requirements of UF<sub>6</sub> cylinders not manufactured in accordance with ANSI Standard 14.1-1982 or an earlier edition of the standard, the public is invited to submit information regarding (1) the effects of the requirement that all packagings be designed and fabricated in accordance with ANSI standards, including the technical and economic impacts of implementing the requirements; (2) the effect of permitting continued use of existing cylinders that do not conform to ANSI standards (grandfathering) and any restrictions or conditions that should be placed on their continued use; (3) all of the standards to which existing cylinders have been manufactured; and (4) any other relevant information regarding design and fabrication of non-ANSI packagings. Comments should be submitted to RSPA by February 15, 1987. Additionally, RSPA will hold a public meeting on March 2, 1987, beginning at 9 a.m. at the U.S. Department of Transportation (Room 2230 of the Nassif Building, 400 Seventh Street SW., Washington, DC) to explore more fully the information submitted by the public.

In consideration of the factors discussed above, the RSPA is revising Amendment 173-198 in the following manner: After June 30, 1987, packagings used for transport of  $UF_6$  must be designed, fabricated, and marked in accordance with ANSI Standard N14.1-1982, or a previous edition thereof.

#### Administrative Notices

The RSPA has determined that the rulemaking and this amendment (1) are not "major" under Executive Order 1291; (2) are not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises, or small governmental jurisdictions; and (4) do not require an environmental impact statement under the National Environmental Policy Act (40 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket. Based on limited information concerning the size and nature of entities likely affected, I certify that the regulation and this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 49 CFR Part 173

Hazardous materials transportation. Packaging. Radioactive materials. In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

#### PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for 49 CFR Part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53(e), unless otherwise noted.

2. § 173.420(a)(2) is revised to read as follows:

§ 173.420 Uranium hexafluoride (fissile and low specific activity).

(a) \* \* \*

(2) After June 30, 1987, packagings must be designed, fabricated, and marked in accordance with American National Standard N14.1-1982, or a previous edition thereof.

Issued in Washington, DC, on December 18, 1986 under authority delegated in 49 CFR Part 1.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

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emergency basis, due to health and safety hazards that may be associated with use of cleaning procedures in Appendix A, ANSI Standard N14.1-1982 for packagings other than new packagings. The effect of this action is to remove potential hazards identified with required cleaning procedures for packagings containing UF<sub>6</sub>.

**EFFECTIVE DATE:** March 12, 1987.

**FOR FURTHER INFORMATION CONTACT:** Michael E. Wangler, Technical Division, Office of Hazardous Materials Transportation, 400 Seventh St., SW., Washington, DC 20590, (202) 368-4545.

**SUPPLEMENTARY INFORMATION:**

On November 18, 1986, RSPA published a final rule under Docket HM-166V, entitled "Hazardous Materials; Uranium Hexafluoride", amendment numbers 172-107 and 173-198 at 51 FR 41631. These amendments strengthened the hazardous materials regulations (HMR, 49 CFR Parts 171 through 179) applying to the transport of UF<sub>6</sub>. Specifically the amendments required that containers for UF<sub>6</sub> be constructed, inspected, tested, cleaned and repaired in accordance with a consensus standard, ANSI Standard 14.1-1982. In addition, the amendments placed limitations on filling cylinders and transporting of filled cylinders.

Subsequent to publication of the final rule, RSPA learned that the new requirements had disqualified a large number of existing UF<sub>6</sub> cylinders, thereby causing serious problems for shippers of this material. In response to five petitions for reconsideration, RSPA on December 24, 1986, published at 51 FR 46674 a revision of the final rule, which both delayed, until June 30, 1987, the requirement that cylinders be constructed in accordance with ANSI Standard 14.1-1982 and modified the packaging requirement by authorizing not only ANSI Standard 14.1-1982 but previous editions of that standard. The revision also announced that a public meeting would be held on March 2, 1987, to discuss issues related to RSPA's rules on the transport of UF<sub>6</sub>. The revision did not alter or delay requirements for cleaning cylinders.

On March 2, 1987, the public meeting was held at the U.S. Department of Transportation. Commenters cited potential disruption in defense and civilian nuclear activities if approximately 50,000 UF<sub>6</sub> packagings were removed from transportation by the new regulation.

In the final rule, cleaning procedures specified in Appendix A of ANSI Standard 14.1-1982 were incorporated in 49 CFR 173.420(a)(1) and made applicable to the cleaning of new and

used packagings for UF<sub>6</sub>. During the March 2, 1987 meeting, several attendees noted that the cleaning procedures in Appendix A are not suitable for cleaning used packagings. Specifically, the Appendix A procedures require that hydrostatic testing be performed prior to cleaning the interior. The commenters believed that introduction of water into a packaging containing a residue of UF<sub>6</sub> during hydrostatic testing could cause a reaction between UF<sub>6</sub> and the water. This reaction produces hydrogen flouride (HF), a corrosive material which may damage the interior of the packaging and could potentially be released and injure persons in the area. RSPA agrees with these commenters and this emergency final rule is being issued to change § 173.420(a)(1) to reference cleaning procedures in ANSI Standard N14.1-1982, which contains procedures for cleaning both new and used packagings, and to delete the reference to Appendix A of the standard, which is suitable for new packagings only.

Other issues discussed in the March 2, 1987 meeting are under consideration by RSPA and not addressed in this final rule.

Under the provisions of section 553 of the Administrative Procedure Act, agencies are permitted to issue a rule in final form when notice and public procedure are impracticable, unnecessary or contrary to the public interest. This final rule eliminates an erroneous and potentially hazardous regulatory requirement and delay of its implementation is believed to be contrary to the public interest. Therefore, I find, under 5 U.S.C. 553, that notice and public procedures on the rule and delay in its effective date are contrary to the public interest.

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises, or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (40 U.S.C. 4321 *et seq.*). Based on limited information concerning the size and nature of entities likely affected, I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 173

[Docket No. HM-166V, Amdt. No. 173-199]

#### Hazardous Materials; Uranium Hexafluoride

**AGENCY:** Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

**ACTION:** Emergency final rule.

**SUMMARY:** This document revises the final rule published on November 18, 1986 in the Federal Register [51 FR 41631] under Docket HM-166V, by removing the requirement that all uranium hexafluoride (UF<sub>6</sub>) cylinders be cleaned in accordance with specific procedures contained in Appendix A of the American National Standards Institute (ANSI) Standard N14.1-1982. This action is necessary on an

**List of Subjects in 49 CFR Part 173**

Hazardous materials transportation.  
Packaging. Radioactive materials.

In consideration of the foregoing, 49  
CFR Part 173 is amended as follows:

**PART 173—SHIPPERS—GENERAL  
REQUIREMENTS FOR SHIPMENTS  
AND PACKAGINGS**

1. The authority citation for 49 CFR  
Part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806,  
1809; 49 CFR 1.53(e), 1.53, App. A to Part 1, 49  
U.S.C. 1655, 1655(c).

2. In § 173.420, paragraph (a)(1) is  
revised to read as follows:

§ 173.420 Uranium hexafluoride (fissile  
and low specific activity).

(a) . . .

(1) Before initial filling and during  
periodic inspection and test, packagings  
shall be cleaned in accordance with  
American National Standard N14.1-  
1982.

. . . . .

Issued in Washington, DC, on March 9,  
1987, under authority delegated in 49 CFR  
Part 1.

M. Cynthia Douglass,  
*Administrator, Research and Special  
Programs Administration.*

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